

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.4016 of 2016 and
CMP.No.20269 of 2016

Kamatchi Ammal ..Petitioner
Vs.
Saroja ..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC praying against the fair and decretal order of the learned Subordinate Judge, Dharapuram, Tiruppur District dated 08.03.2013 in IA.No.618 of 2012 in IA.No.763 of 2009 in OS.No.104 of 2006.

For Petitioner : Mr.T.M.Hariharan

For Respondent : Mr.B.Vijayakumar

ORDER

This civil revision petition is filed against the fair and decretal order of the learned Subordinate Judge, Dharapuram, Tiruppur District dated 08.03.2013 in IA.No.618 of 2012 in IA.No.763 of 2009 in OS.No.104 of 2006 thereby allowing the petition to receive the unregistered and unstamped family arrangement deed in the final decree proceedings.

2. The petitioner is the plaintiff. She filed suit for partition

in respect of the suit property as against the respondent and three others, in which the respondent is the fourth defendant. The suit was decreed by the judgment and decree dated 23.06.2009 in which all the parties were allotted 1/5 share in the suit schedule property. Thereafter the petitioner filed petition for final decree in IA.No.763 of 2009. In the final decree application, Advocate Commissioner was appointed and he also submitted his report with plan. At that juncture, the respondent / fourth defendant filed petition to receive document alleged to have been executed by the petitioner dated 18.05.2011 thereby the petitioner released her right in favour of the respondent and other two brothers by the unregistered and unstamped deed. The court below allowed the petition and received the said document for the reason that the said document was executed by the petitioner and other sister and brothers and it is a family arrangement deed. Admittedly, the said document is an unstamped and unregistered one. That apart, the petitioner denied the very execution of the said document dated 18.05.2011 thereby released her right in respect of her 1/5 share in the suit property in favour of her brothers and the respondent herein.

3. As rightly pointed out by the learned counsel for the

petitioner, the said document dated 18.05.2011 is inadmissible in evidence even for collateral purpose, since it is unstamped and unregistered one. Without considering the above, the court below allowed the petition. Therefore, the order passed by the court below is perverse, illegal and liable to be set aside.

4. Accordingly, this civil revision petition is allowed and the order of the learned Subordinate Judge, Dharapuram, Tiruppur District dated 08.03.2013 in IA.No.618 of 2012 in IA.No.763 of 2009 in OS.No.104 of 2006 is set aside. Further, the court below is directed to pass final decree within a period of eight weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

26.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The Subordinate Judge,
Dharapuram, Tiruppur District



CRP.NPD.No.4016 of 2016

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